IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 315 of 2005

Between:

B. Suryanarayana, S/o Markandeyulu,
R/o H.No. 9-1768, Sanganur Road, Yemmiganur Taluk, Kurnool District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Kurnool District.
2 The Principal Secretary, Government of Andhra Pradesh.
3 The Superintendent, Central Prison, Cherlapalli, R.R. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce Boya Ranga Swamy before this Hon'ble Court and he may be ordered to be released forthwith after declaring the detention order as illegal and void and to pass such other order or orders.

Counsel for the Petitioner:MR. VADDI PAMULETY

Counsel for the Respondents: The Advocate General

The Court, at the stage of admission, made the following :

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ORAL ORDER: (PER BN.J)

Petitioner challenges the order of detention dated 23.9.2004 passed under the provisions of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act').

There are only two grounds on which the order of detention has been challenged. One of the grounds being that the material, on which the detaining authority has passed the order of detention, was not supplied to the detenu. In the counter affidavit, it is stated that the material was served on the detenu on 23.9.2004, through the Superintendent, Sub-Jail, Adoni, and receipt was acknowledged by the detenu, therefore on this ground, the detention cannot be quashed. Another ground

of attack is that on chemical examination of the arrack that was allegedly seized from the petitioner in the cases mentioned in the grounds of detention the Public Analyst had not given the percentage of different constituents of the arrack, but had only stated that it was unfit for human consumption. A Full Bench of this court in W.P.Nos. 19668 and 19669 of 2004 has already held that if Chemical Examiner's report was to the effect that the liquor was not fit for human consumption, it would be relevant material for the District Magistrate to take into consideration, while passing the order of detention, it is not necessary that the percentages of different constituents of the same should be mentioned by the Public Analyst. In the grounds of detention, the Collector has mentioned five cases, which were registered against the detenu from 1.3.2004 to 18.9.2004. All these grounds are relevant, though the petitioner submits that in some of the cases, the detenu had been acquitted. That would not make a difference as far as the order of detention was concerned.

For these reasons, we do not find merit in the writ petition and it is accordingly dismissed. No order as to costs.

(BILAL NAZKI, J)

(DR. G.YETHIRAJULU, J)

Date: 8.2.2005

CVM

To,

1 The Collector and District Magistrate, Kurnool District.
2 The Principal Secretary, The Government of Andhra Pradesh.
3 The Superintendent, Central Prison, Cherlapalli, R.R. District.

4. 2 CCs to learned Advocate General, High Court buildings, Hyderabad (OUT).

5. 2 CD copies.